

THE EFFECTIVE DATE OF THIS ORDINANCE IS JANUARY 26, 2006

ORDINANCE NO. 06-05-401

RE: Solid Waste System Benefit Charge

PREAMBLE

In 2004, the Maryland General Assembly adopted and the Governor signed legislation providing the Board of County Commissioners with the legislative authority to establish a solid waste disposal charge. 2004 Laws of Maryland, Chapter 293, Frederick County Code, § 2-13-34.

The Board of County Commissioners desires to establish such a solid waste disposal charge to be called a system benefit charge.

This system benefit charge will pay a portion of the reasonably anticipated capital costs and operating costs for the disposal of solid waste.

A duly advertised public hearing was held on this Ordinance on May 10, 2005. The public had an opportunity to comment on this Ordinance at this public hearing.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code be amended to add the following:

1-11-43. SYSTEM BENEFIT CHARGE.

A. *SYSTEM BENEFIT CHARGE ESTABLISHED.* THERE IS A SYSTEM BENEFIT CHARGE TO PAY FOR A PORTION OF THE REASONABLY ANTICIPATED CAPITAL COSTS AND OPERATING COSTS FOR THE DISPOSAL OF SOLID WASTE.

**CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.**

B. *COUNTYWIDE APPLICATION.* THIS SYSTEM BENEFIT CHARGE SHALL APPLY COUNTYWIDE INCLUDING WITHIN THE MUNICIPALITIES.

C. *RESIDENTIAL SYSTEM BENEFIT CHARGE.* THE OWNER OF EACH DWELLING UNIT SHALL BE CHARGED A RESIDENTIAL SYSTEM BENEFIT CHARGE. THE OWNER SHALL PAY THIS SYSTEM BENEFIT CHARGE.

D. *AMOUNT OF RESIDENTIAL CHARGE.* THE AMOUNT OF THE ANNUAL RESIDENTIAL SYSTEM BENEFIT CHARGE FOR EACH SINGLE FAMILY RESIDENTIAL DWELLING UNIT SHALL BE \$23 FOR FISCAL YEAR '07 (JULY 1, 2006 THROUGH JUNE 30, 2007) AND \$36 FOR EACH FISCAL YEAR THEREAFTER. THE AMOUNT OF THE ANNUAL RESIDENTIAL SYSTEM BENEFIT CHARGE FOR EACH DWELLING UNIT IN A MULTI-FAMILY RESIDENTIAL BUILDING SHALL BE \$13 FOR FISCAL YEAR '07 AND \$20 FOR EACH FISCAL YEAR THEREAFTER.

E. *IMPOSITION OF NONRESIDENTIAL SYSTEM BENEFIT CHARGE.* THE OWNER OF EACH NONRESIDENTIAL REAL PROPERTY IN THE COUNTY UPON WHICH IMPROVEMENTS HAVING AN ASSESSED VALUE OF GREATER THAN FIVE THOUSAND DOLLARS (\$5,000.00) HAVE BEEN PLACED SHALL BE CHARGED A NONRESIDENTIAL SYSTEM BENEFIT CHARGE. THE OWNER SHALL PAY THIS NONRESIDENTIAL SYSTEM BENEFIT CHARGE.

F. *CALCULATION OF NONRESIDENTIAL SYSTEM BENEFIT CHARGE.*

1. EACH YEAR THE DIVISION MUST MAKE A DETERMINATION OF WHICH OF THE FOLLOWING FIVE WASTE DISPOSAL GENERATOR CATEGORIES A PARTICULAR TYPE OF IMPROVED PROPERTY USE FALLS WITHIN:

- A. LOW GENERATOR 0 TO 2 LBS./SQ. FT.
- B. MEDIUM LOW GENERATOR >2 TO 4 LBS./SQ. FT.
- C. MEDIUM GENERATOR >4 TO 6 LBS./SQ. FT.
- D. MEDIUM HIGH GENERATOR >6 TO 8 LBS./SQ. FT.
- E. HIGH GENERATOR >8 LBS./SQ. FT.

2. THE DIVISION MAY MAKE ITS DETERMINATION OF WHICH OF THE FOREGOING FIVE GENERATOR CATEGORIES A PARTICULAR LAND USE FALLS WITHIN BY REFERRING TO THE MOST CURRENT SOLID WASTE GENERATION STUDY CONDUCTED BY THE COUNTY. IF NO CURRENT STUDY IS AVAILABLE, THE DIVISION MAY BASE THIS CLASSIFICATION ON SOLID WASTE GENERATION STUDIES FROM OTHER JURISDICTIONS.

3. THE AMOUNT OF THE NONRESIDENTIAL SYSTEM BENEFIT CHARGE FOR EACH GENERATOR CATEGORY SHALL BE:

<u>CATEGORY</u>	<u>UNITS</u>	<u>SYSTEM BENEFIT CHARGE PER FISCAL YEAR/PER UNIT</u>	
		<u>'07</u>	<u>'08 & BEYOND</u>
NONRESIDENTIAL - LOW	2,000 SQ. FT.	\$11	\$17
NONRESIDENTIAL - MEDIUM LOW	2,000 SQ. FT.	\$33	\$51

NONRESIDENTIAL - MEDIUM	2,000 SQ. FT.	\$55	\$85
NONRESIDENTIAL - MEDIUM HIGH	2,000 SQ. FT.	\$77	\$123
NONRESIDENTIAL - HIGH	2,000 SQ. FT.	\$98	\$152

4. FOR THE PURPOSE OF CALCULATING THE NONRESIDENTIAL SYSTEM BENEFIT CHARGE, THE GROSS FLOOR AREA OF IMPROVEMENTS ON NONRESIDENTIAL REAL PROPERTY IS TO BE EXPRESSED IN TERMS OF GFA UNITS. FOR EXAMPLE, IF A PROPERTY HAS IMPROVEMENTS WITH A GROSS FLOOR AREA OF 1 - 2,999 SQUARE FEET, THE TOTAL GFA UNITS FOR THAT PROPERTY IS 1. IF A PROPERTY HAS IMPROVEMENTS WITH A GROSS FLOOR AREA OF 3,000 - 4,999 SQUARE FEET, THE TOTAL GFA UNITS FOR THAT PROPERTY IS 2. IF A PROPERTY HAS IMPROVEMENTS WITH A GROSS FLOOR AREA OF 5,000 - 6,999 SQUARE FEET, THE TOTAL GFA UNITS FOR THAT PROPERTY IS 3.

5. THE TOTAL NONRESIDENTIAL SYSTEM BENEFIT CHARGE TO BE PAID BY A PROPERTY OWNER IS DETERMINED BY MULTIPLYING THE NONRESIDENTIAL SYSTEM BENEFIT CHARGE RATE FOR THE GENERATOR CATEGORY BY THE NUMBER OF GFA UNITS ATTRIBUTABLE TO THE GROSS FLOOR AREA OF IMPROVEMENTS LOCATED ON THE NONRESIDENTIAL REAL PROPERTY. FOR EXAMPLE, IF A RETAIL STORE OF 10,000 SQUARE FEET IS IN THE MEDIUM GENERATOR CATEGORY, AND THE NONRESIDENTIAL SYSTEM BENEFIT CHARGE RATE FOR THAT CATEGORY IS \$55 PER GFA UNIT, THE NONRESIDENTIAL SYSTEM BENEFIT CHARGE WOULD BE $\$55 \times 5 \text{ GFA UNITS} = \275.00 .

G. *APPEALS PROCESS.*

1. *RIGHT TO APPEAL.*

A PROPERTY OWNER MAY ON OR BEFORE SEPTEMBER 30 OF THE BILLING YEAR, APPEAL, IN WRITING, TO THE DIRECTOR, WITH A COPY TO THE COUNTY TREASURER, FOR RECONSIDERATION OF: (1) THE GENERATOR CATEGORY DETERMINATION; (2) THE GROSS FLOOR AREA USED AS THE BASIS FOR DETERMINING THE NUMBER OF GFA UNITS; OR (3) THE DETERMINATION OF THE RESIDENTIAL SYSTEM BENEFIT CHARGE. PARTIAL YEAR BILLINGS MAY BE APPEALED WITHIN 60 CALENDAR DAYS OF THE BILLING DATE. ONLY THE PROPERTY OWNER OR AN AGENT DULY AUTHORIZED IN WRITING BY THE PROPERTY OWNER FOR THE PURPOSE OF THE APPEAL, MAY FILE AN APPEAL FOR ANY GIVEN PROPERTY. THE APPEAL MUST BE SUBMITTED USING THE FORM PROVIDED BY THE DIVISION FOR THE SUBJECT LEVY YEAR. THE DIVISION WILL MAIL A CURRENT YEAR FORM TO ANY OWNER OR AGENT REQUESTING ONE.

2. *INFORMATION TO INCLUDE WITH APPEAL.*

THE PROPERTY OWNER MUST INCLUDE WITH THE APPEAL A DETAILED STATEMENT OF THE BASIS FOR THE APPEAL AND DOCUMENTS SUPPORTING THE PROPERTY OWNER'S ASSERTION THAT: (1) THE PROPERTY SHOULD BE INCLUDED IN A DIFFERENT SOLID WASTE GENERATOR CATEGORY; (2) THE GROSS FLOOR AREA USED TO CALCULATE GFA UNITS IS INCORRECT; OR (3) THE RESIDENTIAL SYSTEM BENEFIT CHARGE HAS BEEN INCORRECTLY DETERMINED. IF THE PROPERTY OWNER HAS CHALLENGED THE SOLID WASTE

GENERATOR CATEGORY IN WHICH THE PROPERTY HAS BEEN PLACED, THE DOCUMENTS PROVIDED BY THE OWNER MUST INCLUDE EVIDENCE REFLECTING ALL OF THE WASTE GENERATION AT THE PROPERTY, INCLUDING, BUT NOT LIMITED TO: INVOICES FOR THE MOST RECENT TWELVE MONTHS OF SERVICE FROM THE SOLID WASTE COLLECTOR(S) FOR THE PROPERTY. IF SUCH INVOICES DO NOT STATE THE NET WEIGHTS OF WASTE FROM THE PROPERTY ACCORDING TO WEIGHT TICKETS ISSUED FROM STATE CERTIFIED CALIBRATED SCALES, THEN THE APPLICATION MUST ALSO INCLUDE COPIES OF THE CONTRACTS RELATING THE DUMPSTER VOLUMES AND FREQUENCY OF SERVICE TO THE INVOICED AMOUNTS. STATE CERTIFICATION OF SCALE CALIBRATION MUST HAVE OCCURRED IN THE YEAR IN WHICH THE APPEAL WAS FILED. AFFIDAVITS STATING AN ESTIMATE OF TONNAGE ARE NOT ACCEPTABLE UNLESS ACCOMPANIED BY WEIGHT READOUTS FROM CALIBRATED SCALES. IF INVOICES FOR WASTE COLLECTION DO NOT EXIST, THE APPLICANT MUST CERTIFY THIS, AND THE DIVISION MAY INSPECT THE PROPERTY OR REQUIRE ADDITIONAL INFORMATION UNDER (3) BELOW TO ESTIMATE ITS WASTE GENERATION RATE. IF THE PROPERTY OWNER HAS CHALLENGED THE GROSS FLOOR AREA USED TO CALCULATE GFA UNITS, THE DOCUMENTS PROVIDED MUST INCLUDE EVIDENCE OF THE ACTUAL GROSS FLOOR AREA ON THE PROPERTY FROM ASSESSOR'S WORKSHEETS AT MSDAT OR FROM ARCHITECTURAL PLANS FILED WITH THE COUNTY OR A MUNICIPALITY.

3. *DIRECTOR'S RIGHT TO ADDITIONAL INFORMATION.*

THE DIRECTOR MAY REQUEST THAT THE PROPERTY OWNER PROVIDE ADDITIONAL INFORMATION WHICH THE DIRECTOR REASONABLY BELIEVES WILL ASSIST THE DIRECTOR IN DECIDING THE APPEAL. THE DIVISION MAY ALSO INSPECT THE PROPERTY FOR REASONS CONSISTENT WITH THIS REGULATION. IF THE PROPERTY OWNER FAILS TO PROVIDE THE INFORMATION WITHIN TWENTY-FIVE CALENDAR DAYS OF THE DATE OF THE DIRECTOR'S REQUEST, OR DENIES THE DIVISION ACCESS TO THE PROPERTY FOR AN INSPECTION PURSUANT TO THIS REGULATION, THE DIRECTOR MAY DISMISS THE APPEAL.

4. *WRITTEN DETERMINATION OF APPEAL.*

THE DIRECTOR MUST MAKE A WRITTEN DETERMINATION OF THE APPEAL. THE WRITTEN DETERMINATION OF THE APPEAL MUST BE MAILED TO THE PROPERTY OWNER BY FIRST CLASS MAIL WITH A COPY PROVIDED TO THE COUNTY TREASURER. OTHER THAN DISMISSAL OF AN APPEAL FOR THE REASON STATED IN SUBPARAGRAPH (3) ABOVE, THE DETERMINATION MUST EITHER AFFIRM THE SYSTEM BENEFIT CHARGE OR ADJUST IT BASED UPON EVIDENCE PRESENTED. THE ADJUSTMENT MAY DECREASE OR INCREASE THE SYSTEM BENEFIT CHARGE IMPOSED ON THE PROPERTY OWNER. IN THE CASE OF AN ADJUSTMENT OF THE GENERATOR CATEGORY, AND PROVIDED THERE ARE NO CHANGES IN THE USE OF THE PROPERTY, THE DECISION OF THE DIRECTOR IS

VALID FOR THREE YEARS INCLUDING THAT IN WHICH THE APPEAL TAKES PLACE.

5. *PAYMENT OF SYSTEM BENEFIT CHARGE FOLLOWING APPEAL.*

THE PROPERTY OWNER MUST PAY THE SYSTEM BENEFIT CHARGE AT THE SAME TIME AS REAL PROPERTY TAXES ARE DUE. PAYMENT OF THE FULL SYSTEM BENEFIT CHARGE SHOULD BE PAID BY THE DUE DATE STATED ON THE BILL IN ORDER TO AVOID INTEREST AND PENALTY. IF THE APPEAL RESULTS IN A CHANGE, A REVISED BILL WILL BE ISSUED. IF THE BILL IS DECREASED, A REFUND WILL BE MAILED FOR ANY OVERPAYMENT. IF AN ADDITIONAL PAYMENT IS DUE, THE PROPERTY OWNER WILL HAVE THIRTY (30) DAYS TO PAY THE ADDITIONAL AMOUNT WITHOUT INTEREST OR PENALTY.

H. *COLLECTION OF THE SYSTEM BENEFIT CHARGE.*

THE SYSTEM BENEFIT CHARGE SHALL BE BILLED WITH THE TAX BILL AND COLLECTED ALONG WITH TAXES ON REAL PROPERTY. FOR IMPROVEMENTS THAT ARE COMPLETED AFTER THE BEGINNING OF A FISCAL YEAR, THE SYSTEM BENEFIT CHARGE MAY BE BILLED BASED UPON A PARTIAL YEAR. IF SYSTEM BENEFIT CHARGES ARE NOT BILLED WITH THE TAX BILL FOR ANY REASON, THE BILL MUST INDICATE THE PORTION OF THE YEAR COVERED BY THE INVOICE. SYSTEM BENEFIT CHARGES THAT ARE NOT BILLED WITH THE TAXES ARE PAYABLE WITHIN THIRTY (30) DAYS OF THE BILL DATE.

I. *COLLECTION.*

THE COUNTY TREASURER SHALL COLLECT AND SECURE THE SYSTEM BENEFIT CHARGE IN THE SAME MANNER IN WHICH TAXES ON REAL PROPERTY ARE COLLECTED. IF THE SYSTEM BENEFIT CHARGE OR ANY PORTION OF IT IS NOT PAID WHEN DUE, THE PROPERTY FOR WHICH THE CHARGE HAS BEEN MADE IS SUBJECT TO THE SAME PENALTIES, PROCEDURE, SALE, AND LIEN PRIORITY IN CASE OF DELINQUENCY THAT ARE PROVIDED FOR GENERAL REAL PROPERTY TAXES. THE PROPERTY FOR WHICH THE CHARGE HAS BEEN MADE MAY BE SOLD AT TAX SALE IN THE SAME MANNER AS REAL PROPERTY IS SOLD FOR NONPAYMENT OF TAXES. THE COUNTY MAY ALSO BRING SUIT AGAINST THE PROPERTY OWNER FOR ANY UNPAID SYSTEM BENEFIT CHARGE.

J. *DEFINITIONS.*

COUNTY TREASURER MEANS THE TREASURER OF FREDERICK COUNTY (SOMETIMES REFERRED TO AS THE DIRECTOR OF TREASURY) OR THE DESIGNEE OF THE COUNTY TREASURER.

DIRECTOR MEANS THE DIRECTOR OF THE DIVISION OF UTILITIES AND SOLID WASTE MANAGEMENT FOR FREDERICK COUNTY OR DESIGNEE OF THE DIRECTOR.

DIVISION MEANS THE DIVISION OF UTILITIES AND SOLID WASTE MANAGEMENT FOR FREDERICK COUNTY.

DWELLING UNIT MEANS A ROOM OR GROUP OF ROOMS FORMING A SINGLE RESIDENTIAL UNIT CONTAINING LIVING, SLEEPING AND COOKING

ACCOMMODATIONS AND DESIGNED TO BE USED FOR LIVING PURPOSES. EACH APARTMENT UNIT OR MOBILE HOME SHALL BE CONSIDERED A DWELLING UNIT. DWELLING UNITS SHALL NOT INCLUDE THOSE UNITS DESIGNED PRIMARILY FOR TRANSIENT OCCUPANT PURPOSES, NOR SHALL THEY INCLUDE ROOMS IN HOSPITALS OR NURSING HOMES. IN THE EVENT THE NUMBER OF DWELLING UNITS IN A BUILDING OR STRUCTURE CANNOT OTHERWISE BE DETERMINED, EACH 1,000 SQUARE FOOT AREA, OR PORTION THEREOF, IN THE BUILDING OR STRUCTURE SHALL BE DEEMED TO CONSTITUTE ONE DWELLING UNIT.

GFA UNIT MEANS THE GROSS FLOOR AREA OF AN IMPROVEMENT ON REAL PROPERTY DIVIDED BY 2000. TO DETERMINE THE NUMBER OF GFA UNITS, THE QUOTIENT IS ROUNDED TO THE NEAREST INCREMENT OF 2000 WHOLE NUMBER. FRACTIONS OF LOWER THAN .5 ARE TO BE ROUNDED DOWNWARD AND FRACTIONS OF .5 AND HIGHER ARE TO BE ROUNDED UPWARD. EACH REAL PROPERTY WILL HAVE A MINIMUM OF 1 GFA UNIT, (I.E., 500 SQUARE FOOT = 1 GFA UNIT).

MSDAT MEANS THE MARYLAND STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

MULTI-FAMILY RESIDENTIAL BUILDING MEANS A BUILDING OR OTHER STRUCTURE CONTAINING 2 OR MORE DWELLING UNITS, INCLUDING APARTMENT BUILDINGS, CONDOMINIUMS AND COOPERATIVES.

NONRESIDENTIAL MEANS ANY USE OF LAND OTHER THAN RESIDENTIAL.

NONRESIDENTIAL SYSTEM BENEFIT CHARGE MEANS THE SYSTEM BENEFIT CHARGE IMPOSED UPON NONRESIDENTIAL GENERATORS OF SOLID WASTE IN THE COUNTY.

RESIDENTIAL MEANS ANY USE OF A BUILDING FOR A DWELLING UNIT.

RESIDENTIAL SYSTEM BENEFIT CHARGE MEANS THE SYSTEM BENEFIT CHARGE IMPOSED UPON RESIDENTIAL GENERATORS OF SOLID WASTE IN THE COUNTY.

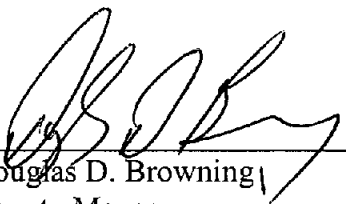
SINGLE FAMILY RESIDENTIAL DWELLING UNIT MEANS A HOUSE, BUILDING OR OTHER STRUCTURE CONTAINING ONE DWELLING UNIT, INCLUDING SINGLE FAMILY HOMES, ROOMING HOUSES, TOWNHOUSES, EACH DWELLING UNIT IN A DUPLEX, AND OTHER SIMILAR BUILDINGS.

AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect on January 26, 2006 and shall apply to all taxable years beginning on or after June 30, 2006.

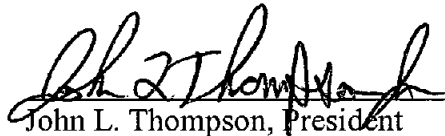
The undersigned hereby certifies that this Ordinance was approved and adopted on the 26th day of January 2006.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF FREDERICK COUNTY, MARYLAND



Douglas D. Browning,
County Manager



John L. Thompson, President

R. J. M.
1-26-06